

REMARKS/ARGUMENTS

Claims 1-5, 7-15 and 17-28 are pending in the application. Claims 1-5, 7-15 and 17-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern, in view of Lyle, and further in view of Piasecki. These rejections are respectfully traversed.

Applicants appreciate the telephone discussion with the Examiner on August 12, where certain claim amendments were discussed that could be presented to expedite prosecution and place the claims in condition for allowance.

Request for withdrawal of improper final rejection.

In the Office action mailed February 3, 2010, independent claims 9 and 25 were rejected under 35 U.S.C. 103(a) over Halpern in view of Lyle. In the response filed May 3, 2010, claims 9 and 25 were not amended, and arguments were presented to overcome the rejection. In the Office action mailed July 20, 2010, claims 9 and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern, in view of Lyle, and further in view of Piasecki. As such, a new ground of rejection was imposed against unamended claims, which is improper. See M.P.E.P. 706.07(a) “Under present practice, second or any subsequent actions on the merits shall be final, **except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement**” (Emphasis added). The Piasecki references were not cited in an information disclosure statement, but were cited by the Examiner. Accordingly, withdrawal of the finality of the present rejection is respectfully requested.

All pending claims have been amended to include limitations discussed with the Examiner on August 12, and are believed to be allowable over the prior art. Withdrawal of all rejections and allowance of all claims is respectfully requested.

CONCLUSION

In view of the foregoing remarks and for various other reasons readily apparent, Applicant submits that all of the claims now present are allowable, and withdrawal of the rejection and a Notice of Allowance are courteously solicited.

If any impediment to the allowance of the claims remains after consideration of this amendment, a telephone interview with the Examiner is hereby requested by the undersigned at (214) 953-5990 so that such issues may be resolved as expeditiously as possible.

No fee is believed due with this response. The Commissioner is hereby authorized to charge any fee or credit any refund to Deposit Account No. 10-0096.

Dated: September 20, 2010

Respectfully submitted,

By: _____

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